

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA**

UNITED STATES OF AMERICA,

CASE NO. 8:04CR152

Plaintiff,

VS.

MEMORANDUM AND ORDER

DOUGLAS A. PACKETT,

Defendant.

This matter is before the Court on the Defendant's motion for appointed counsel, construed also as a motion to reduce his sentence as a result of the recent amendments to the crack cocaine sentencing guidelines (Filing No. 65). The probation office has completed a worksheet (Filing No. 64).

The Defendant, Douglas A. Packett, was sentenced as a career offender to 262 months imprisonment on Count I of the Indictment and a consecutive term of 60 months imprisonment on Count II. On the government's motion under Federal Rule of Criminal Procedure 35, the sentence for Count I was later reduced to 101 months. Packett's motion for appointment of counsel and a sentencing reduction followed. Packett bases his motion on recent Amendment 750 to the sentencing guidelines.

The Eighth Circuit has stated that a career offender's base offense level is determined under U.S.S.G. § 4B1.1 and not U.S.S.G. § 2D1.1. The sentencing commission lowered the levels under § 2D1.1 and did not amend § 4B1.1. *Cf. United States v. Tingle*, 524 F.3d 839, 840 (8th Cir. 2008) (regarding previous amendments to the crack cocaine guidelines under Amendment 706). Therefore, the crack cocaine amendments have no effect on Packett's case. His motion to reduce his sentence is denied.

IT IS ORDERED:

1. The Defendant's motion for appointment of counsel and to reduce his sentence as a result of the recent amendments to the crack cocaine sentencing guidelines (Filing No. 65) is denied; and
2. The Clerk is directed to mail a copy of this order to the Defendant at his last known address.

DATED this 16th day of November, 2011.

BY THE COURT:

S/Laurie Smith Camp
United States District Judge